

ORDINANCE NO. 2212-C-S

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH ADDING SECTION 5.109 TO TITLE 2 AND CHAPTER 3 TO TITLE 4 OF THE ANTIOCH MUNICIPAL CODE CREATING THE ANTIOCH POLICE OVERSIGHT COMMISSION

WHEREAS, the City Council directed City staff to research and make recommendations to the City Council Police Oversight Standing Committee on the potential formation of an Antioch Police Oversight Commission;

WHEREAS, City staff researched (1) police oversight commissions and boards in general law and charter cities; (2) the differences between citizen police oversight commissions in general law cities and charter cities; and (3) solutions that can be achieved under each type of government within state and local laws and policies; and

WHEREAS, City staff recommends the formation of the Antioch Police Oversight Commission to increase transparency, enhance accountability, foster trust, and strengthen police-community relations in the City.

The City Council of the City of Antioch, California, hereby ordains as follows:

SECTION 1. Recitals.

The above recitals are incorporated as though set forth in this section.

SECTION 2. Adoption.

Section 2-5.109 is hereby added to the Antioch Municipal Code to read as follows:

§ 2-5.109 ANTIOCH POLICE OVERSIGHT COMMISSION.

The Antioch Police Oversight Commission ("Police Commission") consists of seven members. The Police Commission has the duties as specified in Chapter 3 of Title 4 of this code.

SECTION 3. Adoption.

Chapter 3 is hereby added to Title 4 of the Antioch Municipal Code to read as follows:

Sections

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4-3.103	MEMBERSHIP AND APPOINTMENT.
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- 4-3.110 POWERS AND DUTIES.
- 4-3.111 PUBLIC REPORTS.
- 4-3.112 REQUIREMENT OF COOPERATION BY THE ANTIOCH POLICE DEPARTMENT AND ALL OTHER CITY EMPLOYEES AND OFFICIALS WITH THE POLICE COMMISSION.

§ 4-3.101 CREATED.

There is hereby created an Antioch Police Oversight Commission (hereinafter referred to as the "Police Commission").

§ 4-3.102 PURPOSE.

The purpose of the Police Commission is to advise the City Council, City Manager, and Chief of Police on the administration of the Antioch Police Department and on matters of public safety within the City of Antioch to ensure that the Antioch Police Department's policies, practices, and customs conform to national standards of constitutional policing.

The Police Commission shall facilitate community participation and oversight by reviewing and recommending policies, procedures, practices, and programs designed to result in community policing that is effective, responsive, and sensitive to the diverse needs of the residents of the City.

The Police Commission shall promote and encourage open communication and cooperation between the Antioch Police Department and residents of the City, recognizing that policing the City of Antioch is a shared responsibility.

The Police Commission shall develop, review, and make policy recommendations aimed at informing the community of its rights and responsibilities when interacting with police officers.

§ 4-3.103 MEMBERSHIP AND APPOINTMENT.

(A) The Police Commission shall consist of seven (7) voting members appointed by the Mayor and confirmed by the City Council.

(B) All voting members of the Police Commission shall be residents of the City of Antioch.

(C) The Mayor and the City Council shall strive to appoint and confirm at least:

(a) one (1) representative from each of the four (4) councilmember voting districts of the City;

- (b) one (1) representative of the Antioch faith-based community;
- (c) one (1) representative of the Antioch business community; and
- (d) one (1) employee or student of the Antioch Unified School District.

(D) No one shall be excluded from the Police Commission because he or she has a criminal record.

(E) The following shall not be eligible to serve as a Police Commissioner:

- (a) current sworn police officer or his/her spouse;
- (b) current City employee or his/her spouse;
- (c) former Department sworn employee or his/her spouse; or
- (d) current or former employee, official, or representative of an employee association representing sworn police officers or his/her spouse.

(F) Commissioners shall not be issued and shall not display, wear, or carry badges that so resemble a peace officer's badge that an ordinary reasonable person would believe that Commissioners have the authority of a peace officer.

§ 4-3.104 TERMS OF OFFICE AND REMOVAL FROM OFFICE.

(A) The terms of office for all members of the Police Commission shall be three years, but the terms of not more than three (3) members shall expire in any one year. Therefore, when the initial seven (7) members are selected, two (2) commissioners shall be appointed to serve an initial one-year term, two (2) commissioners shall be appointed to serve an initial two-year term, and the remaining three (3) shall serve an initial three-year term. No members shall serve for more than two consecutive full terms. For this purpose, the initial one-year and two-year terms in this paragraph shall be considered full terms. The expiration date of all terms shall be November 31, but each member shall serve until his or her successor is duly appointed and qualified.

(B) A member may resign before the expiration of his or her term with written notification to the chairperson of the Police Commission and the Mayor.

(C) Members of the Police Commission shall serve at the pleasure of the City Council and may be removed from office by a majority vote of the Council.

(D) The Police Commission may recommend to the City Council that a member be removed for reasons including but not limited to:

- (a) misuse of position as a Police Commission member;

- (b) misuse of police-issued documents;
- (c) misconduct that impedes the member's ability to serve as an effective and impartial Police Commission member;
- (d) unexcused absences from at least three meetings in a one-year span of time;
- (e) violation of the Code of Ethics of the National Association for Civilian Oversight of Law Enforcement (NACOLE); or
- (f) conflict of interest.

(E) Upon receipt of notification of resignation or a Council vote of removal, the position shall be considered vacant and eligible for the Mayor to nominate a replacement commissioner for appointment with confirmation by the City Council. The replacement commissioner shall serve for the remainder of the term and be eligible for reappointment for one additional term.

§ 4-3.105 OFFICERS.

During January of each year, the Police Commission shall elect one of its members as chairperson and one as vice-chairperson who shall each hold office for one (1) year or until their respective successors are elected. After all Police Commission members have been appointed and confirmed, officers shall be elected no later than the second meeting of the Police Commission. No officer shall be eligible to serve more than two consecutive terms in the same office.

§ 4-3.106 MEETINGS.

(A) The Police Commission shall hold its first meeting within thirty days after all of its members have been appointed and confirmed. At the first meeting, the Police Commission shall set the time and date of regularly scheduled meetings, which shall occur at least twice each month, except during the months of July and December when regular meetings shall occur once per month. Regular meetings of the Police Commission shall be held at Antioch City Hall except for meetings held under section 4-3.060(B). The Police Commission shall notify the public of the time and place of its meetings and provide time for public comment at each meeting in compliance with the Brown Act.

(B) At least two meetings of the Police Commission each year shall be held at locations within the City of Antioch other than City Hall for the purpose increasing community engagement with the Police Commission. The Police Commission shall make a good faith effort to hold these meetings at public schools, youth centers, or community-based organizations within the City of Antioch.

(C) All Police Commission meetings are subject to the Brown Act.

(D) In the interest of upholding and modeling a positive relationship between the citizens of Antioch and the Antioch Police Department, the Antioch Chief of Police, or his or her designee, shall attend the beginning of all public meetings of the Police Commission and, as the first order of new business, be placed on the agenda to comment or report on any matters under consideration by the Police Commission.

§ 4-3.107 NO COMPENSATION.

Members of the Police Commission shall serve without compensation. However, the City Council may authorize the reimbursement of reasonable expenses incurred by the members in the performance of their duties.

§ 4-3.108 BUDGET.

The City shall provide the Police Commission with funding for general operating expenses, training, and continuing education for all Police Commissioners.

§ 4-3.109 TRAINING.

The City shall provide appropriate funding for introductory training of new Police Commission members as well as continuing education for all members. Training shall cover all of the following, but not be limited to:

- (A) The ordinance establishing the Police Commission;
- (B) National standards of constitutional policing;
- (C) Department operations, policies, procedures, practices, and programs;
- (D) Laws governing local public records and public meetings, confidentiality, police officer rights, arrestee rights, and excessive force; and
- (E) Police policies, practices, and procedures around stops, arrests, use of force, detention, large-scale protests, and marginalized communities.

§ 4-3.110 POWERS AND DUTIES.

To effectuate its purpose, the Police Commission shall, in compliance with the California Public Records Act (Gov. Code, §§ 6250 et seq.), Penal Code Sections 832.7 and 832.8; California Public Safety Officers Procedural Bill of Rights Act (Gov. Code, §§ 3300 et seq.), Government Code section 38630, Government Code section 37104, Penal Code section 832.7, and all other applicable state and federal law:

(A) Propose changes, at its discretion or upon receiving direction from the City Council, including modifications to the Police Department's proposed changes, to any policies or procedures of the Police Department that govern First Amendment assemblies, use of force, use of canines, use of de-escalation techniques on civilians, hate crimes, or biased-based policing including profiling based on any of the protected characteristics identified by federal, state, or local law. All such proposed changes and modifications shall be submitted to the City Council for approval or rejection.

(B) Recommend City Council approval or rejection of the Police Department's proposed changes to all policies and procedures of the Police Department that govern First Amendment assemblies, use of force, use of canines, use of de-escalation techniques with civilians, hate crimes, or biased-based policing including profiling based on any of the protected characteristics identified by federal, state, or local law.

(a) If the Police Commission recommends rejection of the proposed policy, the Police Department's proposed changes, notice of the Commission's rejection, and the reasons for rejection, together with the Police Department's proposed changes, shall be submitted to the City Council for review.

(b) If the Police Commission recommends approval of the Police Department's policy, the Police Department's proposed changes will proceed directly to the City Council for review.

(c) If the Police Commission does not approve or reject the Police Department's proposed changes within sixty (60) days of the Police Department's submission of the proposed changes to the Police Commission, the Police Department's proposed changes will proceed directly to the City Council for review.

(C) Review and comment on, at its discretion, any other policies, procedures, customs, and general orders of the Police Department. All such comments shall be submitted to the Chief of Police, the City Manager, and the City Attorney. The Chief of Police shall provide a written response to the Police Commission upon request.

(D) Review the City Council's proposed budget advise whether budgetary allocations for the Police Department are aligned with the Police Department's policies and procedures. The Police Commission shall conduct at least one public hearing on the Police Department budget per budget cycle and shall forward to the City Council any recommendations for change.

(E) Require the Chief of Police to submit an annual report to the Police Commission regarding such matters as the Police Commission shall require.

(F) Report at least once a year to the Mayor, the City Council, and to the public to the extent permissible by law, the information contained in the Chief's report in addition to such other matters as are relevant to the functions and duties of the Police Commission.

(G) Receive reports from the Police Department on publicly disclosable information concerning the status of civilian complaints. Develop a program for the mediation of civilian complaints, in coordination with the Chief of Police, the City Manager, and the City Attorney.

(H) Study, develop, and recommend community policing and alternative crime-prevention policies and strategies to the Chief of Police, City Manager, City Attorney, and City Council; assess and make recommendations regarding the role of social services in public safety, including but not limited to those related to mental health, alcohol and substance abuse, homelessness, juvenile justice, and education.

(I) Develop and recommend, in conjunction with the Chief of Police and the City Manager, educational programs regarding policing in Antioch and community outreach events, such as town hall meetings, forums to communicate information about neighborhood watch programs, and events designed to encourage safety and emergency preparedness.

(J) Request and review data from public records of the Antioch Police Department as needed to effectuate the Police Commission's powers and duties including data regarding police use of force; demographics of individuals stopped, searched, or arrested; demographics of Antioch Police Department officers and staff; and officer training and qualifications.

§ 4-3.111 PUBLIC REPORTS.

(A) The Police Commission shall draft and issue public reports regarding the issues described in section 4-3.100. An annual report may be in the form of an update from a previous year's report. The Police Commission may issue additional public reports as it deems appropriate.

(B) The Police Commission shall provide annual public reports to City Council, City Manager, and City Attorney on the Police Department's progress on Police Commission recommendations and other updates relevant to the mission of the Police Commission.

(C) All public reports shall omit or redact any confidential or privileged information as defined by State law.

SECTION 4. CEQA.

The adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061(b)(3), which provides that CEQA only applies to projects which have the potential for causing a significant effect on the environment. Where it can be determined that the proposed project will not have a significant adverse effect on the environment, the project is not subject to CEQA. This Ordinance authorizes the City Council to create an Antioch Police

Oversight Commission and does not propose nor authorize any action or specific project that would have the potential to cause a significant adverse effect on the environment.

SECTION 5. Severability.

Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable, or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 6. Publication; Effective Date.

This Ordinance shall take effect and be enforced within thirty (30) days from and after the date of its adoption by the City Council at a second reading and shall be posted and published in accordance with the California Government Code.

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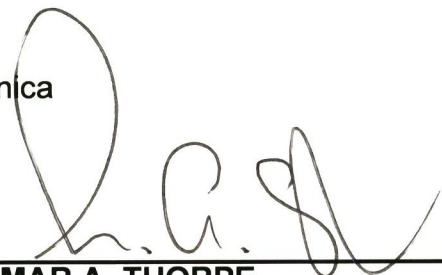
I **HEREBY CERTIFY** that the foregoing ordinance was introduced at a regular meeting of the City Council of the City of Antioch held on the 10th day of May, 2022 and passed and adopted at a regular meeting thereof held on the 24th day of May, 2022, by the following vote:

AYES: Council Members District 1 Torres-Walker, District 4 Wilson, and Mayor Thorpe

NOES: Council Member District 3 Ogorchock

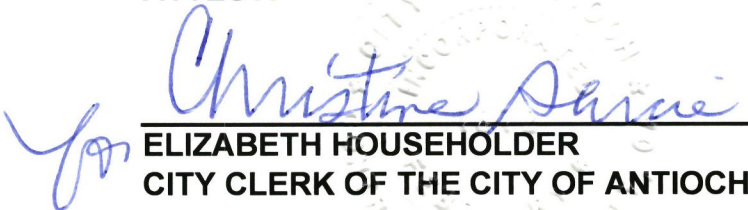
ABSTAIN: None

ABSENT: Mayor Pro Tem (District 2) Barbanica



LAMAR A. THORPE
MAYOR OF THE CITY OF ANTIOCH

ATTEST:



ELIZABETH HOUSEHOLDER
CITY CLERK OF THE CITY OF ANTIOCH